REMARKS

Claims 1, 3-14 and 16-33 remain pending in the application.

The Applicants respectfully request the Examiner to reconsider earlier rejections in light of the following remarks. No new issues are raised nor is further search required as a result of the changes made herein. Entry of the Amendment is respectfully requested.

Claims 1, 3-7, 12-14, 16-21 and 26-29 over Lechleider in view of Bellenger and Lu

In the Office Action, claims 1, 3-7, 12-21 and 26-29 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Lechleider, U.S. Patent No. 6,091,713 ("Lechleider") in view of Bellenger *et al.*, U.S. Patent No. 6,058,110 ("Bellenger") and U.S. Patent No. 6,870,899 to Lu *et al.* ("Lu"). The Applicants respectfully traverse the rejection of the remaining claims.

Claim 15 was previously cancelled. Thus, claims 1, 3-7, 12-14, 16-21 and 26-29 were rejected over Lechleider in view of Bellenger and Lu.

Claims 1, 3-7, 12-14, 16-21 and 26-29 recite a system and method for using a combination analog/DSL modem for provisioning of DSL service, with provisioning of DSL service comprising establishing a physical connection between a subscriber's location, a central office and a service provider's complementary DSL device.

The Examiner acknowledged in the Response to Arguments section of the Office Action that Lechleider in view of Bellenger and Lu teaches testing for suitability for DSL service, and the DSL service is only "used" if the suitability of the connection supports it. However, "use" of DSL service is predicated upon that a physical connection has already been established between a customer and a DSL provider. Thus, the cited prior art's "use" of DSL service is NOT establishing a physical connected between a subscriber's location, a central office and a service provider's complementary DSL device, as recited by claims 1, 3-7, 12-14, 16-21 and 26-29.

The Examiner acknowledges that Lechleider fails to disclose use of an analog/DSL modem wherein the combination analog/DSL modem is not provisioned for DSL service, until the suitability of the service line is tested. (See Office Action, pages 3 and 4). The Office Action relies on Bellenger and Lu to allegedly make up for the deficiencies in Lechleider to arrive at the recited features. The Applicants respectfully disagree.

Bellenger at col. 2, lines 60-67 is cited by the Examiner as allegedly disclosing an analog/DSL modem that provides analog service while operating in the analog (voice) band and DSL service while operating in the DSL band. Office Action at 3. Bellenger, however, discloses a modem that operates in a plurality of bands, with operation in the DSL band if the telephone line is capable of carrying signals in the DSL band (see Bellenger col. 2, lines 57-67). In Bellenger, the service line connected to the modem is already provisioned for DSL service. Bellenger does not disclose using an analog/DSL modem for provisioning of DSL service, with provisioning of DSL service comprising establishing a physical connection between a subscriber's location, a central office and a service provider's complementary DSL device, as recited by claims 1, 3-7, 12-14, 16-21 and 26-29.

Lu is cited by the Examiner to disclose provisioning of a DSL line at col. 3, lines 1-5, col. 1 and 2 Background. However, Lu at col. 1, lines 31-35 simply discloses that ADSL does not require provisioning of any new lines but instead can be executed over a single twisted-wire pair, such as an existing telephone line. Lu's invention is directed toward qualifying loops for ADSL service that do not require provisioning (see col. 4, lines 44-47). Thus, although Lu mentions provisioning of DSL service in the Background of the Invention, Lu's invention is directed toward service loops that do not require provisioning. Thus, Lu's invention fails to disclose or suggest provisioning. However, even if Lu disclosed provisioning, Lu fails to disclose using an analog/DSL modem for provisioning of DSL service, with provisioning of DSL service comprising establishing a physical connection between a subscriber's location, a central

office and a service provider's complementary DSL device, as recited by claims 1, 3-7, 12-14, 16-21 and 26-29.

Moreover, the Examiner alleged (Office Action p. 3) that it would have been obvious to modify Lechleider with the disclosure of Bellenger "because the DSL band modem would be automatically provisioned and qualified for DSL band communications as taught by Bellenger and would advantageously modify the method of Lechleider by removing the step of replacing the analog (voice) band modem with one that operates in the DSL band (a DSL modem)." However, as discussed above, Lechleider's invention has nothing to do with automatically provisioning of DSL service to a service line that previously had not been provisioned for DSL service by being connected to a central office and a service provider's complementary DSL device. Moreover, Bellenger involves connection to a service line that is already provisioned for DSL service. Thus, there is nothing within either Lechleider or Bellenger that discloses or suggests modifying Lechleider to use of an analog/DSL modem for provisioning of DSL service, with provisioning of DSL service comprising establishing a physical connection between a subscriber's location, a central office and a service provider's complementary DSL device, as recited by claims 1, 3-7, 12-14, 16-21 and 26-29.

Thus, the only reference that discloses use of a modem that is able to operate within multiple bands, Bellenger, fails to disclose or suggest use of that modem on a line that is not provisioned for DSL service. The only reference that mentions provisioning, Lu, fails to disclose provisioning as part of his invention. Lechleider in view of Bellenger and Lu would still fail to disclose, teach or suggest using an analog/DSL modem for provisioning of DSL service, with provisioning of DSL service comprising establishing a physical connection between a subscriber's location, a central office and a service provider's complementary DSL device, as recited by claims 1, 3-7, 12-14, 16-21 and 26-29.

Accordingly, for at least all the above reasons, claims 1, 3-7, 12-14, 16-21 and 26-29 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Claims 8-11, 22-25 and 30-33 over Lechleider in view of Bellenger, Lu and Vogt

In the Office Action, claims 8-11, 22-25 and 30-33 were rejected under 35 USC § 103(a) as allegedly being obvious over Lechleider in view of Bellenger and Lu, and further in view of U.S. Pat. No. 5,625,667 to Vogt, III *et al.* ("Vogt").

Claims 8-11 are dependent on independent claim 1, claims 22-25 are dependent on independent claim 16 and claims 30-33 are dependent on independent claim 27. Claims 8-11, 22-25 and 30-33 are patentable over the prior art of record for the same reasons that independent claims 1, 16 and 27 are patentable.

Claims 8-11, 22-25 and 30-33 recite using an analog/DSL modem for provisioning of DSL service, with provisioning of DSL service comprising establishing a physical connection between a subscriber's location, a central office and a service provider's complementary DSL device.

As discussed above, Lechleider, as modified by Bellenger and Lu, either alone or in combination, fails to disclose, teach or suggest using an analog/DSL modem for provisioning of DSL service, with provisioning of DSL service comprising establishing a physical connection between a subscriber's location, a central office and a service provider's complementary DSL device, as recited by claims 8-11, 22-25 and 30-33.

The Examiner relied on Vogt to allegedly disclose tip and ring voltage that can be measured to calculate the capacitance and resistance of a telephone line and measurement of parameters of a telephone line to detect potential problems (see Office Action, page 12). However, Vogt fails to disclose or suggest use of a combination analog/DSL modem for any reason, much less using an analog/DSL modem for provisioning of DSL service, with provisioning of DSL service comprising establishing a physical connection between a subscriber's location, a central office and a service provider's complementary DSL device, as recited by claims 8-11, 22-25 and 30-33.

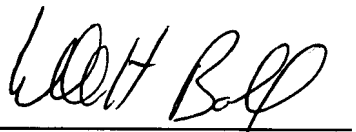
Thus, Lechleider in view of Bellenger, Lu and Vogt, either alone or in combination, fails to disclose, teach or suggest using an analog/DSL modem for provisioning of DSL service, with provisioning of DSL service comprising establishing a physical connection between a subscriber's location, a central office and a service provider's complementary DSL device, as recited by claims 8-11, 22-25 and 30-33.

Accordingly, for at least all the above reasons, claims 8-11, 22-25 and 30-33 are patentable over the prior art of record. It is therefore respectfully requested that the rejections be withdrawn.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,



William H. Bollman
Reg. No.: 36,457
Tel. (202) 261-1020
Fax (202) 887-0336

MANELLI DENISON & SELTER PLLC
2000 M Street, N.W. 7th Floor
Washington D.C. 20036-3307
WHB/df